

Message Text

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ORIGIN NEA-10

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O R 192124Z JUL 78
FM SECSTATE WASHDC
TO AMEMBASSY ABU DHABI IMMEDIATE
INFO AMEMBASSY KUWAIT
USDOC

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E.O. 11652: N/A

TAGS: BEXP, PINT, TC

SUBJECT: BOYCOTT OF ISRAEL - REQUEST FOR GUIDANCE

REF: (A) ABU DHABI 1959; (B) ABU DHABI 1999; (C) STATE
168024

1. FACTS GIVEN IN ABU DHABI 1959 LEAD US TO CONCLUDE THAT
THE QUOTE AMERICAN MANAGER OF THE US FIRM, WHICH IS A
LOCAL SUBSIDIARY OPERATING ENTIRELY WITHIN THE UAE
UNQUOTE IS A U.S. PERSON WITHIN MEANING OF SECTION 369.1
(B) AND THAT THE SUBSIDIARY IS QUOTE CONTROLLED IN FACT
UNQUOTE WITHIN THE MEANING OF SECTION 369.1 (C) OF THE
EXPORT ADMINISTRATION REGULATIONS AS PUBLISHED AND
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DISCUSSED IN EXPORT ADMINISTRATION BULLETIN 174 (EAB 174)
DATED JANUARY 30, 1978, COPIES OF WHICH SHOULD BE
AVAILABLE AT POST.

2. THE AMERICAN MANAGER OF THE U.S. FIRM IN QUESTION IS
CORRECT IN HIS UNDERSTANDING THAT HE MAY NOT REPEAT NOT
REPLY TO ANY QUESTIONS CONCERNING RACE, RELIGION, SEX OR

NATIONAL ORIGIN OF PARENT COMPANY'S BOARD MEMBERS
(SECTION 369.2 (C) OF EXPORT ADMINISTRATION REGULATIONS).
HE IS ALSO CORRECT IN HIS UNDERSTANDING THAT HE MAY
AFFIRM AS TO THE PRESENT NATIONALITY AND CITIZENSHIP

OF BOARD MEMBERS OF THE U.S. PARENT (SEE EXAMPLE
ROMAN VII UNDER SECTION 369.2 (C) ON PAGE 18 EAB 174.

3. AMERICAN MANAGER OF US FIRM IN QUESTION IS NOT REPEAT
NOT CORRECT IN HIS BELIEF (PARA 3 AND 5 OF ABU DHABI
1959) THAT HE MAY REPLY TO A QUESTIONNAIRE QUOTE ENTIRELY
OF HIS OWN KNOWLEDGE AND WITHOUT REFERENCE TO THE U.S.
PARENT UNQUOTE (SEE EXAMPLE ROMAN I UNDER SECTION 369.2
(C) ON PAGE 17 OF EAB 174.

BEGIN UNCLASSIFIED

4. EMBASSY'S UNDERSTANDING (PARA 4 OF ABU DHABI 1959)
ABOUT AUTHENTICATING DOCUMENTS IS ESSENTIALLY CORRECT,
EXCEPT FOR DATES. THE DOCUMENT AUTHENTICATION OFFICE
HAS BEEN SPECIFICALLY PROHIBITED FROM AUTHENTICATING
DOCUMENTS RELATING TO THE ARAB BOYCOTT OF ISRAEL SINCE
ENACTMENT OF SECTION 3, PARA 5 OF THE EXPORT ADMINIS-
TRATION ACT OF 1969 (PL 91-184, DECEMBER 31, 1969,
83 STAT. 841, 50 U.S.C. APP. 2402 (5) AND THE PUBLICATION
OF THE DEPARTMENT OF STATE REGULATION IMPLEMENTING
THAT STATUTE (CODE OF FEDERAL REGULATIONS, TITLE 22,
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SECTION 131.2 (B). THE STATUTE WAS MODIFIED AND EXTENDED
BY THE EXPORT ADMINISTRATION AMENDMENTS OF 1977, SIGNED
INTO LAW ON JUNE 22, 1977. DEPARTMENT'S STANDARD
HAND-OUT USED BY THE DOCUMENT AUTHENTICATION OFFICE IS
BEING POUCHED TO ADDRESSEES. PARAS 2-4 OF HAND-OUT ARE
REPEATED BELOW FOR EMBASSY'S GUIDANCE IN MEETING WITH
AMERICAN MANAGER OF U.S. FIRM IN QUESTION.

5. PARA 2 OF HAND-OUT READS QUOTE BRIEFLY, THE STATUTE
STATES THAT IT IS THE POLICY OF THE UNITED STATES TO
OPPOSE RESTRICTIVE TRADE PRACTICES OR BOYCOTTS IMPOSED
AGAINST COUNTRIES FRIENDLY TO THE UNITED STATES AND TO
ENCOURAGE AND REQUEST DOMESTIC CONCERNS TO REFUSE TO

TAKE ANY ACTION, "INCLUDING THE FURNISHING OF INFORMATION,"
IN FURTHERANCE OF SUCH PRACTICES AND BOYCOTTS. THE
IMPLEMENTING DEPARTMENT OF STATE REGULATION PROHIBITS
THE AUTHENTICATION OF "DOCUMENTS WHICH HAVE THE EFFECT
OF FURTHERING OR SUPPORTING" SUCH PRACTICES OR BOYCOTTS.
END QUOTE.

6. PARA 3 READS QUOTE THE GOVERNING STATUTORY AND REG-

ULATORY LANGUAGE IS THUS VERY SPECIFIC. IN IMPLEMEN-
TATION OF THESE CONGRESSIONAL STATEMENTS OF POLICY, THE
AUTHENTICATION OFFICE HAS BEEN PROHIBITED FROM CERTIFYING
ANY DOCUMENTS WHICH HAVE THE EFFECT OF FURTHERING OR

SUPPORTING SUCH ACTIVITIES AS THE ARAB BOYCOTT. WHEN,
IN A TRANSACTION RELATING TO A BOYCOTTING COUNTRY, A
DOCUMENT IS USED WHICH REQUIRES THAT AN AMERICAN FIRM
GIVE ASSURANCES REGARDING BUSINESS DEALINGS WITH ISRAEL,
ISRAELIS, OR BLACK-LISTED FIRMS OR PERSONS, WE MUST
ASSUME THAT THIS IS AN ENFORCEMENT OF THE ARAB BOYCOTT.
IT IS DIFFICULT TO IMAGINE ANY OTHER PURPOSE FOR SUCH A
STATEMENT. END QUOTE.

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7. PARA 4 READS QUOTE OUR POLICY ON THIS MATTER HAS
BEEN IN EFFECT FOR QUITE SOME TIME, AND FOREIGN GOVERN-
MENTS AND THEIR WASHINGTON REPRESENTATIVES ARE WELL
AWARE OF THE DEPARTMENT'S POSITION ON THIS ISSUE. END
QUOTE.

8. WE ARE NOT REPEAT NOT SURE OF THE BASIS FOR THE
AMERICAN MANAGER'S CONFUSION BUT EMBASSY MAY WISH TO
CONSULT SECTION 369.3 (F) OF EXPORT ADMINISTRATION
REGULATIONS (PAGES 40-45 OF EAB 174) AS AMENDED BY
PAGES 41 AND 42 OF EXPORT ADMINISTRATION BULLETIN 179
DATED MAY 5, 1978. GUIDANCE USEFUL TO EMBASSY IN
ASSISTING THE LOCAL AMERICAN MANAGER WILL ALSO BE
FOUND IN PARA 4 OF STATE 168024 CONCERNING OBLIGATIONS
OF CONTROLLED SUBSIDIARIES UNDER RECENTLY ANNOUNCED
ANTI-BOYCOTT REPORTING REGULATIONS, PUBLISHED IN
JULY 5 FEDERAL REGISTER, WHICH WILL BECOME EFFECTIVE
AUGUST 1, 1978. END UNCLASSIFIED.
CHRISTOPHER

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Disposition Case Number: n/a
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TAGS: BEXP, PINT, TC
To: ABU DHABI
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